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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

GOLDEN CREEK HOLDINGS, INC., a Delaware  
corporation,

Plaintiff,

vs.

MTC FINANCIAL INC. dba TRUSTEE CORPS, a  
corporation; U.S. BANK TRUST NATIONAL  
ASSOCIATION, NOT IN ITS INDIVIDUAL  
CAPACITY BUT SOLELY AS OWNER  
TRUSTEE FOR RCF2 ACQUISITION TRUST, a  
national banking association; DOES I through X and  
ROE BUSINESS ENTITIES I through X, inclusive,

Defendants.

Case No.: 2:24-cv-00177-RFB-NJK

**PLAINTIFF, GOLDEN CREEK  
HOLDINGS, INC.'S, OBJECTION TO  
DEFENDANT, MTC FINANCIAL  
INC. dba TRUSTEE CORPS',  
DECLARATION OF NON-  
MONETARY STATUS [ECF No. 6]**

COMES NOW Plaintiff, GOLDEN CREEK HOLDINGS, INC. ("Plaintiff"), by and  
through its attorney of record, JOSEPH Y. HONG, ESQ. of HONG & HONG LAW OFFICE, and  
hereby files its Objection to Defendant, MTC FINANCIAL INC. dba TRUSTEE CORPS' ("Mtc"),  
Declaration of Non-Monetary Status.

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1 This Objection is based on the following points and authorities, and all pleadings and papers  
2 filed in this action.

3 DATED this 28<sup>th</sup> day of February, 2024.

4 HONG & HONG LAW OFFICE

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7 /s/ Joseph Y. Hong

8 JOSEPH Y. HONG, ESQ.

9 State Bar No. 005995

10 1980 Festival Plaza Drive, Suite 650

11 Las Vegas, Nevada 89135

12 Attorney for Plaintiff

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**MEMORANDUM OF POINTS AND AUTHORITIES**

Contrary to Defendant, Mtc's, Declaration of Non-Monetary Status, as set forth in Plaintiff's Complaint, the claims against Defendant, Mtc, are not pursuant to Defendant, Mtc, merely serving as the trustee under the deed of trust and allegedly not due to any wrongful act or omission made in the performance of its duties as trustee. Rather, as expressly set forth in the Complaint, it has been alleged that Defendant, Mtc, failed to comply with the applicable provisions of NRS Chapters 107, 106 and/or 205. It has further been expressly set forth in the Complaint by way of a standalone claim for relief against only Defendant, Mtc, that it violated the enumerated duties under NRS 107.028.

NRS 107.028(7) states:

"7. If, in an action brought by a grantor, a person who holds title of record or a beneficiary in the district court in and for the county in which the real property is located, the court finds that the **trustee did not comply** with this section, any other provision of **this chapter** or **any applicable provision of chapter 106 or 205 of NRS**, the court **must** award to the grantor, the person who holds title of record or the beneficiary:

(a) Damages of \$5,000 **or treble** the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; **and**

(c) Reasonable attorney's fees and costs, unless the court finds good cause for a different award."

Emphasis added. *See* NRS 107.028(7).

Thus, pursuant to the allegation as set forth in the Complaint, Defendant, Mtc, cannot be absolved of any damages and attorney's fees and costs and be entitled to be a non-party participant in this action as it so requests under NRS 107.029.

DATED this 28<sup>th</sup> day of February, 2024.

HONG & HONG LAW OFFICE

/s/ Joseph Y. Hong

JOSEPH Y. HONG, ESQ.

State Bar No. 005995

1980 Festival Plaza Drive, Suite 650

Las Vegas, Nevada 89135

Attorney for Plaintiff

#### CERTIFICATE OF SERVICE

I certify that I am an employee of Joseph Y. Hong, Esq., and that on this 28<sup>th</sup> day of February, 2024, I served a true and correct copy of the foregoing **PLAINTIFF, GOLDEN CREEK HOLDINGS, INC.'S, OBJECTION TO DEFENDANT, MTC FINANCIAL INC. dba TRUSTEE CORPS', DECLARATION OF NON- MONETARY STATUS [ECF No. 6]** by electronic transmission through the Court's electronic filing system upon each party in this case who is registered and listed as an electronic case filing user with the Clerk.

By /s/ Debra L. Batesel

An employee of Joseph Y. Hong, Esq.